

London

1389. d. 31.

REPORT

OF THE

CONSTITUTIONAL SOCIETY

UPON THE

TREASON AND SEDITION BILLS.

L O N D O N:

Printed for T. G. BALLARD, No. 7, Little Mays Buildings
Bedford-street; and J. SMITH, at the Pop-Gun, Pounts-
mouth-street.

PRICE ONE PENNY.

London Wednesday, Dec. 23, 1795.

*READ the Report of the Committee, to whom it had been referred
at the last Meeting, to consider the two Acts lately passed for pre-
venting Treason and Sedition.*

RESOLVED, That it is essential to the welfare of the People,
that they should have a correct knowledge of their Political
Rights, and to what extent they are, from time to time, restrained
by the Acts of the Legislature.

Resolved, That we cannot, at the present important moment,
do a greater service to our Countrymen than by publishing the
Report now read.

Resolved, That this Report be published.

JOHN CHATFIELD, Chairman



THE REPORT.

WE conceive we cannot better accomplish the object of our
appointment, than by endeavouring to analyse the two
Acts referred to our consideration; to point out what alterations
they appear to us to have made in the Law of the land and what
the People may in our opinion still do *by law* in the assertion of
their public Rights, notwithstanding these Acts.

Lord

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Lord GRENVILLE'S Act consists of two branches ; the first relating to *High Treason*, and the second to what is called *Sedition*.

By the first, it is declared to be *High Treason*.

To compass, imagine, invent, devise, or intend any one of the following seven things :

1. Death or destruction,
2. Any bodily harm, *tending to death or destruction*,
3. Maim or wounding,
4. Imprisonment or restraint,
5. To deprive or depose him or them from the style, honour, or kingly name of the Imperial Crown of this realm, or of any other of his Majesty's dominions or countries.
6. To levy war against his Majesty, &c. within the realm.
 1. In order, by force or constraint, to compel him to change his measures or counsels, or,
 2. In order to put any force or constraint upon both Houses, or either House of Parliament.
 3. In order to intimidate or overawe both Houses, or either House of Parliament.
7. To move or stir any foreigner or stranger with force to invade this realm, &c.

} of the persons
of the King, his
heirs and suc-
cessors.

Such compassings, imaginations, inventions, devices, or intentions, being expressed, uttered, or declared.

1. By publishing any printing or writing, or,
2. By any overt act, or deed.

Of these things, before this Act, one only was a specific Treason, viz. to compass or imagine the King's death. Of the rest, we believe we may assert, that even *actually doing* him any bodily harm *tending to death or destruction*, or *actually maiming or wounding* him, and that too with an intention of producing his death, would not have been specific Treasons, but only *overt acts* of compassing his death; that a *conspiracy* to imprison or restrain the person of the King, or to deprive or depose him, or to levy war against him, were not considered as specific Treasons, but at the utmost as *overt acts* of compassing his death; that a conspiracy with a foreign prince, or *actually inciting* him to invade the realm, was also no *specific* Treason, but only an *overt act* of compassing the King's death; and that a *conspiracy* to levy war, in order to put any force or constraint upon, or to intimidate or overawe both Houses or either House of Parliament, was not even an *overt act* of any Treason : But by this Act, the bare intention of any single individual, without *conspiracy* with others, to do any one of the things mentioned, is created a *specific* Treason, and that intention may be inferred from what he may publish by printing or writing. The state of information among the People, gives us reason to hope that no man will ever be convicted under this act; but what a powerful instrument of oppression

tion it might become, by being made the foundation of state prosecutions, appears to us too manifest to require any farther observation here.

This branch of the statute is to continue in force till the end of the next session of Parliament after the death of his present Majesty.

By the second branch, it is declared, that he "who shall maliciously and advisedly, by writing, printing, preaching, or other speaking, publish, utter, or declare, any words or sentences to incite or stir up the People to hatred or contempt, 1. Of the person of his Majesty, his heirs or successors, or, 2. Of the Government and Constitution of this realm, as by law established;" shall, for the first offence, suffer the punishment inflicted in cases of high misdemeanour; for the second, the same punishment, or banishment, or transportation, in the discretion of the Court in which the conviction is; the banishment or transportation to be for any term not exceeding seven years.

This branch of the statute is to continue in force for three years from the day when it was passed, and till the end of the then next Session of Parliament: it extends only to England; the reason of which is obvious from the late sentences of the Court of Justiciary in Scotland. To this clause is added another by way of auxiliary, rendering it death for any person banished or transported, to be at large within Great Britain before the expiration of his term: Prosecutions under it must be within six calendar months after the offence committed; and the conviction must be by the oaths of two witnesses. But that no offender may escape with impunity, it is provided that the Act shall not prevent or affect any prosecution by information or indictment at Common Law, unless the party shall have been first prosecuted under this Act.

If the many prosecutions and convictions, which have taken place during the course of the last three years, for what is termed sedition, be considered as a proof of what was really the Law of the Country, it may be supposed by some, that the only alteration introduced by this branch of the Statute, is the novelty of the punishment for the second offence: we cannot, however, consider the subject in that light: It is true that heretofore, a man might have been prosecuted, might have been convicted, and of course sentenced to a severe punishment, for almost every thing that may be prosecuted as an offence under this branch of the Statute: But there were those who conceived that many things so prosecuted were no offences, and that to prosecute them as such, was contrary to the fundamental principles of the Constitutional freedom. Juries have sometimes been of that opinion, and have acquitted where they were expected to convict; it was probable, therefore, that prosecutions would for the future, be less rashly instituted, and the occupation of a Spy or Informer

be less eagerly and less wantonly pursued. But by means of this Act, we conceive, that a system, which we hoped was near its termination, will be restored, for a time at least, with fresh vigour; that no man will be able, either in writing or in conversation, to express his disapprobation of any abuse, however flagrant in the administration of the Government, or against any political institution; however notoriously hostile to the interests of the people, without exposing himself to be wantonly *harrassed* by *prosecution*, though he may not always be *afraid of conviction*.

Mr. PATT's Act has also two principal branches.

By the first, every Meeting consisting of more than 50 persons, "for the *purpose*, or on the *pretext*, of *considering* or *preparing* any petition, remonstrance, declaration, or other address to the King, or to both Houses, or either House of Parliament, for the *alteration* of matters established in Church or State, or for the *purpose* or on the *pretext* of *deliberating* on any *grievance* in Church or State," held without notice, is declared to be illegal.

By the second "Every house, room, field, or other place where lectures shall be delivered, or public debates held concerning any supposed public grievance, or any matters relating to the Laws, Constitution, Government or policy of the kingdom, where persons are admitted for money, or by tickets sold for money, or in consequence of *having* paid, or given, or *agreeing* to pay or give money or other valuable thing for admission," is declared to be a disorderly house, &c. unless previously licensed.

The notice required to render legal any meeting held for the purposes described in the first branch, must either be inserted in some public Newspaper usually circulated in the district, or delivered to the Clerk of the Peace, five days, at least, before the meeting be held.

It must be signed by not less than seven resident householders of the district; must contain their places of abode and descriptions, and must specify the time and place of meeting, and the purpose for which it is to be held; and where it is given by advertisement, seven of the resident householders who signed it, must also sign an authority to insert it in the Newspaper, which must be written at the foot of a true copy of the notice, and delivered to the person required to insert it.

Where more than 50 persons are assembled for any of the purposes mentioned in this branch of the Statute, without such previous notice, a Magistrate, by Proclamation, may order them to disperse: and if 12 remain together an hour after Proclamation, they are to be punished with death.

Even, when a meeting is held in pursuance of notice, yet "if the *purpose* for which the notice declares it is intended to be held, or if any thing mentioned in the notice, as intended to be discussed at the meeting, shall *purport* that any thing established by law may be altered, otherwise than by the authority of the King,

Lords

Lords and Commons in Parliament assembled; or shall *tend* to incite or stir up the people to *hatred* or *contempt* of the person of his Majesty, or of the Government and Constitution of the realm, any one Magistrate present, may by proclamation, command the persons assembled to disperse; and if twelve remain together one hour after proclamation, they shall be punished with death.

Though the meeting be regularly assembled in pursuance of notice, and no objection be made to the *purport* of that notice, yet "if any person shall at such meeting proceed to propound or maintain any proposition for altering any thing by law established, otherwise than by the authority of the King, Lords and Commons in Parliament assembled; or shall wilfully and advisedly make any proposition, or hold any discourse, for the purpose of inciting or stirring up the people to hatred or contempt of the person of his Majesty, or of the Government and Constitution of this realm as by law established:" Any single Justice present at the meeting may, if he *think fit*, order such person to be taken into custody, to be dealt with according to law; and any obstruction being made to such order, he may by proclamation, command the meeting to disperse, and if 12 persons remain together one hour after such proclamation, they may be punished with death.

By these two clauses, we conceive the permission to meet, on notice previously given, is rendered altogether nugatory. The people will seldom be very anxious to meet in considerable numbers, for remonstrating against any established law or institution, or deliberating on any existing grievance, where the legislature has not already shewn a strong disinclination to grant redress; it is natural, therefore, to suppose, that some *intermediate* plan may be propounded for *promoting* the object of the meeting, without an immediate application to the legislature, though the proposers may have no intention, ultimately, to accomplish it without the authority of that body; and it is hardly possible that any language should be used in remonstrating against an established law, or obnoxious political institution, or in deliberating on a grievance strongly felt, which may not by an ignorant or venal Magistrate be considered as *tending* to excite hatred or contempt against some part of what he may conceive to be the Government and Constitution of the realm.

In order, however, the more effectually to enforce the execution of this branch of the act, the Magistrate is authorized to require the assistance of the peace officers of the district; and where twelve or more continue assembled one hour after the proclamation, he may command *all* his Majesty's subjects to assist in apprehending them, and carrying them before a Justice of peace, in order that they may be proceeded against according to law; and if any of the persons so assembled shall be killed, maimed,

ed, or hurt, in consequence of the attempt to disperse or seize them, the Justice and his assistants are indemnified.

The Sheriffs depute, and their substitutes, and other Magistrates in Scotland, are invested with the same powers for that part of the united kingdom, as the Magistrates in England.

From the restrictions imposed by this branch of the Statute, are excepted meetings of the following descriptions.

1. A Meeting of any County, Riding, or Division, called by the Lord Lieutenant, Custos Rotulorum, or Sheriff of such County.

2. A Meeting called by the Convener of any County or Stewartry in Scotland.

3. A Meeting called by two or more Justices of the Peace of the County, or place where such Meeting shall be held.

4. A Meeting of any County, having different Ridings or Divisions, called by any two Justices of any one or more of such Ridings or Divisions.

5. Any Meeting called by the major part of the Grand Jury of the County, or of the Division of the County, where such Meeting shall be holden, at their General Assizes, or General Quarter Sessions of the Peace.

6. Any Meeting of any City, or Borough, or Town Corporate, called by the Mayor, or other head officer of such City or Borough, or Town Corporate:

7. A Meeting of any Ward or Division, of any City or Town Corporate, called by the Alderman, or other head officer of such Ward or Meeting.

And 8. Any Meeting of any Corporate Body.

How far it is probable that advantage may be taken of the exceptions to promote the interests, and preserve the rights of the people, we think it unnecessary here to enquire.

The more effectually to enforce the restriction imposed by the second branch of this Statute, it is provided, that the person to whom any house, &c. shall be opened, or used for the purpose mentioned in that branch, shall forfeit 100l. to such person as shall sue for it, and shall be otherwise punished as the law directs, in cases of disorderly houses; and that any person who shall appear as master or mistress, or as having the command, government, or management of any such house, &c. shall be considered as the person by whom the same is opened or used, and be liable to be prosecuted accordingly. And every person managing, or conducting the proceedings, or acting as President or Chairman, every person debating or lecturing—every person who shall give, collect, or receive any money, or other thing, for the admission of any person; and every person who shall deliver or distribute, or receive any ticket for admission, knowing such house, &c. to be opened for such purpose, shall respectively

forfeit the sum of one hundred pounds to such person as shall sue for the same.

Any Justice, &c. who shall, by information upon oath, have reason to suspect that any house, &c. is opened, or used for the purposes mentioned in this branch of the Statute, may go thither and demand admittance; and on his being refused, the house, is to be deemed a disorderly house, or place, within the meaning of the act; the same penalties are imposed on the several persons before described, and a penalty of 100*l.* on every person refusing admittance.

Two Justices at the General Quarter Session of the Peace, or at any Special Session, to be held for the purpose, may grant a licence for a year, or for any less time, to be specified in the licence, to any person or persons they shall think proper, to deliver lectures or discourses on any of the subjects mentioned in this branch of the Statute, which must, however, be clearly expressed in the licence.

To persons of what description such licences are likely to be granted, it is no difficult matter to conjecture; but lest the justices should happen to be mistaken in their opinion of the persons, the licence may be revoked and declared void by any order of the justices for the same county, &c. at any General Quarter Session of the Peace; and to enable them the better to judge when such licence ought to be revoked, the same authority, under the same penalties in case of refusal of admittance, is granted to justices, &c. as where no licence has been granted, the admittance being demanded at the time of delivering, or at the time appointed for delivering the lecture or discourse.

By the manner in which the clause relating to the granting of the licence is worded, it seems to be confined to the case of a single lecturer, and not to extend to houses used for debate.

The objects of the first branch of this Statute, seem to be two: first—to prevent general meetings of the people for the purpose of procuring the repeal of any law once established; and Second—to restrain select associations formed for the attainment of any specific political object.

The view of the second branch, seems to be the prevention of general discussion on political subjects in promiscuous meetings, composed of unconnected individuals.

It remains for us, therefore, to point out what, in our opinion, the people may still do, by law, notwithstanding this statute.

The second branch makes no exception with respect to numbers; we think, therefore, that lectures cannot be delivered, or debates held “concerning any supposed public grievance, or any matters relating to the laws, constitution, government, or policy of the kingdom,” in any meeting, however small the numbers, where admittance is obtained for money: But that any particular person may deliver lectures “on public grievances, or on any

any matters relating to the laws, constitution, government, or policy of the kingdom," and may (subject to what exception may arise from Lord Grenville's act) express himself with the same freedom he might have done before, provided nothing be taken for the admission of his hearers. We think too, that *debates* may be held on "any matters relating to the laws, constitution, government, or policy of the kingdom," in any assembly however numerous, provided nothing be taken or given for admission; and provided also, that no part of the laws, constitution, government; or policy of the kingdom, be represented as a *grievance*; for in that case we are afraid the meeting *might* be considered as being held "for the *purpose*, or on the *pretext*, of deliberating on *grievances* in church or state;" which, by the first clause of the statute, is declared to be illegal, without notice.

The restriction of the first branch of the statute is confined to meetings held for "considering or preparing petitions, &c. for the *alteration* of matters *established*, or for deliberating on *grievances* in church or state." We, therefore, concur in an opinion delivered in the House of Commons, that "any meeting, however numerous, may be held without notice, for the purpose of considering or preparing any petition, remonstrance, declaration, or other address to the King, or to both Houses, or to either House of Parliament, against any bill *pending* in Parliament;" and that the powers vested in justices, and the penalties imposed by this statute, cannot be exercised or inflicted in the case of any such meeting.

Lastly, we think that any meeting, not exceeding 50 persons may, notwithstanding this statute, be still held "for considering or preparing any petition, &c. or for deliberating on any *grievance* in church or state;" That associations composed of any indefinite number of members, for the attainment of any political objects, may still subsist, provided its meetings be never attended by more than 50 persons at a time; — That where a society is composed of a great number, the members may meet in sub-divisions of 50's, and the business of the society be conducted by a Committee of Delegates from the divisions; and, that where the divisions are so many as to render the Committee of Delegates too numerous, the society may divide itself into local districts, each district having its divisions, and its Committee of Delegates from these divisions, and the concerns of the society at large may be managed by a Committee composed of Delegates from the Committees of the districts.

The statute is to continue for three years, from the day of its being passed, and until the end of the then next Session of Parliament.

Prosecutions under it are to commence within six calendar months, and actions for the penalties to be brought within three calendar months after the offence committed.

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